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Objection:

The Office Action objects to Claim 20 as being informal for lacking a period at the end of the sentence. This claim has been amended above to address this objection. Withdrawal is requested.

Rejections:

Claims 7, 9, 10, and 24 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully traverses this rejection.

The Office Action indicates that Claims 7 and 9 are indefinite as the Examiner is unclear regarding the term "multi-limbed", while guessing that it relates to the cross-section of the fiber. Applicant respectfully submits that one of ordinary skill in the art would recognize that the Examiner's guess is the only reasonable interpretation. This is especially true upon review of the specification (See p. 12, ll. 14-25). Reconsideration and withdrawal of the rejection of these claims is earnestly solicited.

The Office Action indicates that the limitation "fiber" in Claim 10 lacks antecedent basis in Claims 1 and 2. Applicant has amended Claim 10 to refer to the "fibrous material" of Claim 2.

The Office Action indicates that the meaning of "ring capable of maintaining said lower portion into an *open position*" (emphasis in original) is unclear. Applicant has amended Claim 24 consistent with the disclosure on p. 7, ll. 10-12. Applicant believes that the amended Claim 24 complies with the requirements of 35 U.S.C. §112, second paragraph. Reconsideration and withdrawal of the rejection of this claim are earnestly solicited.

Claims 1, 2, 5, 13, 21-25, and 29 stand rejected under 35 U.S.C. §102(b) as anticipated by Davis et al., US Pat. No. 3,791,385 ("Davis"). Applicant respectfully traverses this rejection.

The present invention relates to an absorbent device for insertion into a vaginal cavity. The absorbent device has an overwrap and an absorbent structure having absorbent material that may be aggregate in nature. The overwrap has an upper portion and a lower portion. The upper portion includes a liquid permeable open mesh web or apertured film material. The lower portion includes a liquid impermeable material, such as a thin film or a coated fabric. The upper

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and lower portions are joined to form a container for the absorbent material. The lower portion is capable of contacting vaginal walls during use.

Davis purports to disclose a catamenial device having a collapsible ovular shell having a perforated upper hemisphere and an imperforate lower hemisphere. The shell is described as pliant and supple that is collapsible for insertion.

The Office Action indicates that Davis teaches a catamenial device comprising a collapsible shell having a perforated upper portion and a non-perforated impervious lower portion. It notes that the pliable shell chamber is deformably pliable and adapted to return to original dimensions after prolonged collapse.

Applicant respectfully points out that the present Claim 1 has an overwrap containing an absorbent material. The upper portion of the overwrap includes a liquid permeable open mesh web or apertured film material. The lower portion includes a liquid impermeable material, such as a thin film or a coated fabric. While the Office Action points out that "the pliable shell chamber . . . is deformably pliable and adapted to return to original dimensions after prolonged collapse," Applicant respectfully points out that such a structure is markedly different than an open mesh web or apertured film coupled to a thin film or coated fabric impermeable material. While Davis's shell has sufficient material memory to return to its original dimensions, the overwrap of the present invention employs much more flexible materials.

Applicant respectfully points out that the overwrap of Claim 25 has different characteristics in its upper and lower portions and contains an aggregate absorbent material.

As well settled, anticipation requires "identity of invention." Each and every element recited in a claim must be found in a single prior art reference and arranged as in the claim. Furthermore, there must be no difference between what is claimed and what is disclosed in the applied reference. Moreover, it is incumbent upon the Examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference. In the present case, the Office Action has failed to exhibit this.

The Office Action fails to set forth where Davis discloses, *inter alia*, an aggregate absorbent material. Thus, Davis fails to disclose each and every element of Claim 25. For this reason, the rejection is improper and should be withdrawn.

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Claims 10 and 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Davis in view of Balzar, US Pat. No. 5,827,256. Applicant respectfully traverses this rejection.

The present invention is generally described above. Claims 10 and 11 relate to further refinements of the invention. They relate to limitations on the absorbent material, either compressed or formed into a pledget.

Balzar purports to disclose a tampon having a protective finger sheath for its insertion. The tampon is formed from a rolled up absorbent that is compressed into an absorbent pledget.

The Office Action allows that Davis fails to teach a compressed absorbent fibrous core, but it indicates that Balzar supplies this teaching. The Office suggests that it would have been obvious to use the compressed absorbent pledget of Balzar in the device of Davis in order to provide a more compact absorbent tampon.

Applicant respectfully submits that the suggested combination fails to teach or suggest the presently claimed invention. The failure of Davis to teach the invention of Claim 1 (from which Claims 10 and 11 depend) is described in detail, above. Applicant does not believe that Balzar adds anything to the teaching of Davis. Unless the Office can identify specific teachings in the cited references that teach or suggest the presently claimed invention, Applicant respectfully requests that the present rejection be reconsidered and withdrawn.

Claims 3, 14-19, and 26-28 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Davis in view of Olsen, US Pat. No. 5,688,257. Applicant respectfully traverses this rejection.

The present invention is generally described above. Claims 3, 14-19, and 26-28 relate to further refinements of the invention. In particular, Claim 3 relates to a binding agent included in the absorbent material, and Claims 14-19 and 26-28 relate to various aspects of materials selected for the device overwrap.

Olsen purports to disclose a tampon having a heat-sealed withdrawal end to form an essentially fluid-impervious barrier. This allegedly improves the tampon protection against leakage and increases the stability of the tampon.

In reference to Claim 3, the Office Action indicates that, while Davis fails to teach using a binding agent, Olsen allegedly teaches that a small amount of thermoplastic binding fibers may be added to its fibrous absorbent structure to provide stability.

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Applicant respectfully submits that the suggested combination fails to teach or suggest the presently claimed invention. The failure of Davis to teach the invention of Claim 1 (from which Claim 3 depends) is described in detail, above. Applicant does not believe that Olsen adds anything to the teaching of Davis. Unless the Office can identify specific teachings in the cited references that teach or suggest the presently claimed invention, Applicant respectfully requests that the present rejection be reconsidered and withdrawn.

In reference to Claims 14-19 and 26-28, the Office Action indicates that, while Davis fails to teach using a nonwoven material as the outer shell casing, Olsen teaches a tampon comprising an absorbent body encased in a fluid permeable thermoplastic nonwoven material. The Office suggests that it would have been obvious to use the nonwoven material of Olsen in the device of Davis in order to provide a more comfortable absorbent tampon.

Applicant respectfully submits that the suggested combination is an improper hindsight rejection and that there is no motivation to make the combination, as the suggested substitution of Olsen's nonwoven for Davis's shell would defeat the purpose of the Davis device. Indeed, Davis teaches away from the use of a flimsy, flexible nonwoven material. Davis attempts to provide an expandable menses collector having an ovular form defined by an outer shell. Thus, it is the shell of Davis that defines its shape. In marked contrast, the nonwoven material of Olsen merely takes on the shape of the absorbent structure that it contains. If one were to replace the shell of Davis with the nonwoven of Olsen, the Davis device would not have "sufficient rigidity to maintain its initially formed expanded shape" as required (Col. 2, ll. 64-65). Therefore, Davis teaches away from the suggested substitution, as it would defeat one of the significant goals of the Davis device. This being the case, it is only through the improper selection of individual portions of Davis and Olsen that the Office has crafted its rejection. Because the rejection is improper, Applicant respectfully requests that the present rejection be reconsidered and withdrawn.

Claim 12 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Davis in view of Schaefer, US Pat. No. 3,815,601. Applicant respectfully traverses this rejection.

The present invention is generally described above. Claim 12 relates to a further refinement of the invention. They relate to the limitation on the absorbent material that it incorporates a plurality of compressed tablets.

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Schaefer purports to disclose a tampon having an absorbent body formed of an aggregate of separate pieces of low modulus, resilient, absorbent foam.

The Office Action allows that Davis fails to teach using compressed absorbent tablets, but it indicates that Schaefer supplies this teaching. The Office suggests that it would have been obvious to use the resilient foam aggregate of Balzar in the device of Davis in order to increase its absorption capacity, containment, and rates.

Applicant respectfully submits that the suggested combination fails to teach or suggest the presently claimed invention. The failure of Davis to teach the invention of Claim 1 (from which Claim 12 depends) is described in detail, above. Applicant does not believe that Schaefer adds anything to the teaching of Davis. Further, Applicant does not see an explicit teaching in Schaefer of compressed, absorbent tablets. Unless the Office can identify specific teachings in the cited references that teach or suggest the presently claimed invention, Applicant respectfully requests that the present rejection be reconsidered and withdrawn.

Claims 6-9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Davis in view of Martens et al., WO 97/23248 ("Martens"). Applicant respectfully traverses this rejection.

The present invention is generally described above. Claims 6-9 relate to further refinements of the invention. They relate to the use of cellulosic fibers in the absorbent material.

Martens discloses a tampon having an absorbent body formed of a mixture of standard cellulosic fibers and multilimbed cellulosic fibers.

The Office Action allows that Davis fails to teach using specific cellulosic fibers, but it indicates that Martens supplies this teaching. The Office suggests that it would have been obvious to use the fibers of Martens in the device of Davis in order to increase its absorption capacity.

Applicant respectfully submits that the suggested combination fails to teach or suggest the presently claimed invention. The failure of Davis to teach the invention of Claim 1 (from which Claims 6-9 depend) is described in detail, above. Applicant does not believe that Martens adds anything to the teaching of Davis. Unless the Office can identify specific teachings in the cited references that teach or suggest the presently claimed invention, Applicant respectfully requests that the present rejection be reconsidered and withdrawn.

Finally, Claim 4 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Davis in view of Olsen and JP 07-070896. Applicant respectfully traverses this rejection.

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The present invention is generally described above. Claim 4 relates to a further refinement of the invention. It relates to a water-soluble binding agent incorporated into the absorbent material.

JP 07-070896 purports to disclose a nonwoven fabric for catamenial devices that integrates biodegradable non-swelling thermoplastic short fibers and a water soluble or dispersible compound.

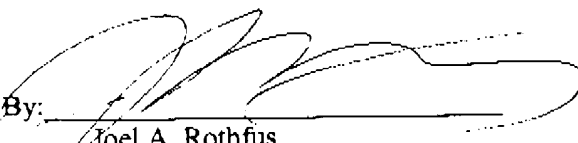
The Office Action allows that the combination of Davis and Olsen fails to teach using a water-soluble binding agent, but it indicates that JP 07-070896 supplies this teaching. The Office suggests that it would have been obvious to use the water-soluble binding agent of JP 07-070896 in the device of Davis and Olsen in order to allow it to be flushed away.

Applicant respectfully submits that the suggested combination fails to teach or suggest the presently claimed invention. The failure of Davis and Olsen to teach the invention of Claims 1 and 3 (from which Claim 4 depends) is described in detail, above. Applicant does not believe that JP 07-070896 adds anything to the teaching of Davis and Olsen. Unless the Office can identify specific teachings in the cited references that teach or suggest the presently claimed invention, Applicant respectfully requests that the present rejection be reconsidered and withdrawn.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page(s) is/are captioned "Version with markings to show changes made".

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims:

Claims 1, 10, 20, and 24 have been amended as follows:

1. (Amended) An absorbent device for insertion into a vaginal cavity, said absorbent device comprising an overwrap and an absorbent structure, the overwrap comprising an upper portion and a lower portion, said overwrap comprised of dissimilar materials such that said upper portion comprising a liquid permeable material selected from the group consisting of open mesh webs, polymeric nets, and apertured films and said lower portion comprising a liquid impermeable material selected from the group consisting of thin films and coated fabrics, said upper and lower portions joined to form a container for said absorbent material, said lower portion contacting walls of said vaginal cavity and said absorbent structure comprising absorbent material.

10. (Amended) An absorbent device of claim 2, wherein said [fiber] fibrous material is compressed.

20. (Amended) An absorbent device of claim 18, wherein said bottom portion has extending therefrom a body withdrawal mechanism.

24. (Amended) An absorbent device of claim 1, further comprising a strengthening ring, said ring capable of [maintaining] opening said [lower] portion [into an open position].